

REMARKS

1. Formalities

Claim Withdrawal. Claims 4 and 14-32 have been withdrawn from consideration pursuant to Applicant's election without traverse of Invention A, Species A, claims 1-3 and 5-13.

Claim Amendments. Pursuant to the Examiner's 35 U.S.C. § 112 rejection of claims 10 and 13, Applicant has made appropriate amendments to those claims. Applicant has also made amendments to claims 1 and 5, and to withdrawn claim 15. No new matter has been introduced.

2. Claim Rejections – 35 U.S.C. § 112

Claims 10 and 13 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Specifically, the Examiner has objected to “plastic-type material” terminology used in claims 10 and 13. Applicant respectfully notes that claim 10 uses the terms “elastic-type material” rather than “plastic-type.” In response to this rejection, Applicant has amended claims 10 and 13 to read as “elastic material” and “plastic material” respectively in order to distinctly claim the subject matter of the invention.

3. Claim Rejections – 35 U.S.C. § 102

Claims 1-3 and 7-12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by United States Patent No. 6,231,104 to Roethel (hereinafter referred to as “Roethel”).

In response, Applicant respectfully submits that Roethel does not teach each and every element of currently amended independent claim 1. In particular, Roethel fails to disclose a “modular frame member comprising multiple removably interconnecting support members” (emphasis added). Applicant respectfully submits that Roethel does not disclose or teach a frame member, nor one that comprises multiple interconnecting support members. The Examiner has identified reference number 125 as a “fairing frame member.” See Office Action, page 3. However, applicant contends that reference number 125 is not a fairing frame member, but instead “attachment means,” namely, “bungee cords” or “elastomeric cords.” See Roethel, column 4, lines 17-19, 32, and 41. Roethel discloses that such cords may “extend from the upper

(handlebar) down to the lower (fender/fork).” See Roethel, column 4, lines 41-45. Unlike the support members of the present invention, as recited in claim 1, the attachment means in Roethel are incapable of being interconnected with one another to form a fairing frame member. Still further, the attachment means are flaccid or limp (they are described as bungee or elastomeric cords) and incapable of providing a defined fairing frame shape.

Roethel also discloses that such cords do not have to run the full length of the removable shield but “are secured to the shield at desired locations in order to provide suitable attachment points.” See Roethel, column 4, lines 54-58. Thus, according to the language in Roethel, it clearly discloses that item 125 is merely an “attachment means,” and not a frame member as the Examiner suggests. Applicant submits that construing the “attachment means” 125 in Roethel as a “fairing frame member” is inconsistent with the specification and teaching of Roethel, and that one skilled in the art would not look to Roethel as disclosing a fairing frame member as is recited in the claims of the present invention. In addition, even if the attachment means (elastomeric cord 125) in Roethel is construed as a frame member, applicant contends that nowhere is it disclosed in Roethel that the attachment means may comprise multiple removably interconnecting support members, each being configured to removably couple to one another to form a fairing frame member having a distinct shape specifically formed by or defined by the interconnection of the multiple support members.

Likewise, no other element disclosed in Roethel may be properly construed as a frame member within the meaning of the claims of the present invention, as currently amended. For example, reference number 130 in Roethel identifies a “casing [] formed along the edges of the flexible material.” See Roethel, column 4, lines 42-43. This casing is intended to receive the attachment means, such as the elastomeric cords, and is part of the flexible material of the removable shield 10. This casing is neither 1) comprised of multiple removably interconnecting support members, or 2) used to form any part of a fairing frame member separate and apart from the flexible material of the removable shield 10. As such, applicant submits that casing 130 cannot be construed as a fairing frame member within the meaning of the claims of the present invention.

Dependent claims 3 and 7-12 place further limitations on what is otherwise allowable subject matter, as argued above. Therefore, Applicant respectfully submits that these claims also

stand in a condition for allowance.

Based on the foregoing, and because Roethel fails to disclose each and every element of the claims of the present invention, applicant respectfully requests that the rejection under 35 U.S.C. § 102 be withdrawn.

4. *Claim Rejections – 35 U.S.C. § 103*

Claims 5-6 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Roethel in view of United States Patent No. 4,655,497 to Mallett (hereinafter referred to as “Mallett”). Applicant appreciates the concerns raised by the Examiner, but respectfully submits that in light of the arguments presented below, neither Roethel nor Mallett, either individually or collectively, render these claims of the present invention obvious.

In response, Applicant contends that based upon the foregoing 35 U.S.C. § 102 discussion, Roethel does not disclose, teach or suggest the elements of currently amended independent claim 1, upon which claims 5 and 6 are dependent. In addition, applicant contends that any applied combination of teachings from Mallett and Roethel is incapable of overcoming this deficiency with respect to claim 1, as well as claims 5 and 6. In particular, neither Roethel (as explained above) nor Mallett teach or suggest a “modular frame member comprising multiple removably interconnecting support members.” Referring to the text and figures in Mallett, there is nothing contained therein that teaches or suggests the frame 56 or any of its components 60, 62, 64, 65, 66, and 70, may be “modular” or removably interconnected with one another. On the contrary, Mallett specifically teaches a fairing frame designed as a single unit (e.g., no interconnecting members) with no teaching or suggestion that it is ever to be disassembled for convenient storage. In fact, there is no mention in the text at all pertaining to the way in which the frame components are to be attached to each other. The figures, provide some additional insight with respect to the way the frame is configured, namely they suggest that attachment is achieved by rivets or welding, thus making any attachment of any separate frame components permanent. See Mallett, FIG. 1. In addition, disassembly of the frame, if such attachments were permanent, would require the use of tools. This directly teaches away from a fairing frame that comprises multiple modular support members that both interconnect with one another and that are removably interconnected to permit breakdown of the frame for storage, without the use of

tools. Thus, applicant submits that Mallet fails to make up for any deficiency found in Roethel as Mallett fails to teach that which the Examiner relies upon it as teaching. Thus, one skilled in the art would not look to a combination of Roethel and Mallett to arrive at the present invention.

With respect to claim 5, specifically, neither Roethel nor Mallett, nor their combination, teach or suggest a fairing frame member having first and second side, middle and intermediate portions that are modular and capable of being removably interconnected with one another.

With respect to claim 6, specifically, neither Roethel nor Mallett, nor their combination, teach or suggest a fairing frame member formed of modular removably interconnecting support members having a tubular formation, wherein the support members can be coupled together in a telescopic/mating arrangement.

Based on the foregoing, Applicant submits that claims 5 and 6, which depend from allowable independent claim 1, are not rendered obvious by the combination of cited prior art. As such, Applicant respectfully requests that the claims of the application be reconsidered and that the rejection under 35 U.S.C. § 103 be withdrawn.

CONCLUSION

Based on the foregoing, Applicant respectfully submits that the deficiencies in the application have been corrected and that the proposed claims are neither anticipated nor rendered obvious by the prior art references cited by the Examiner. As such, Applicant believes that the application is now in a condition for allowance, and action to that end is respectfully requested.

If any impediments to the allowance of this application for patent remain after the above amendments and remarks are entered, the Examiner is invited to initiate a telephone conference with the undersigned attorney of record.

The Commissioner is hereby authorized to charge any additional fee or to credit any overpayment in connection with this Amendment to Deposit Account No. 20-0100.

DATED this 18th day of July, 2008.

Respectfully submitted,

THORPE, NORTH, & WESTERN, LLP

/Christopher L. Johnson/

Christopher L. Johnson
Attorney for Applicant
Registration No. 46,809

THORPE, NORTH, & WESTERN, LLP
8180 S. 700 E., Suite 350
Sandy, Utah 84070
(801) 566-6633 telephone
(801) 566-0750 facsimile

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